

DEPARTMENT OF VETERANS AFFAIRS

**Justification and Approval (J&A)
For
Other Than Full and Open Competition**

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Office (NCO) 23, 708 S. Third Street, Suite 200E, Minneapolis, MN 55415, on behalf of the Veterans Integrated Service Network (VISN) 23 Network Hospitals. This is a Justification for Other Than Full and Open Competition.

2. **Nature and/or Description of the Action Being Processed:** The purpose of this contractual action is for the justification and approval for a modification to Contract No. VA263-P-1088 to increase the contract maximum by \$4,000,000, from \$8,000,000 to \$12,000,000. The original contract was estimated at \$7,450,000 and was a firm fixed priced Indefinite Delivery/Indefinite Quantity (IDIQ) contract for Reference Lab services for the entire VISN 23 hospital portfolio. The original contract has an expiration date of March 31, 2016. The current contract has had a total of \$7,998,000 orders placed against the contract and the continuation of services is required until a long term contract can be put in place. The contract usage increased by 67% from Fiscal Year 2011 to Fiscal Year 2014. This increase utilized majority of the estimated quantity for the entire contract in Option Year III. This contractual action will allow for the continuation of services until a new contract can be awarded and the awardee has achieved full implementation of the required services. This modification will update the contract maximum to a firm amount of \$12,000,000.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** VISN 23 Pathology & Laboratory Medicine Service Line (PLMS) has a requirement for Reference Laboratory Services and does not have the capability to perform these services in-house. The current contract has approximately 4500 unique tests that are completed under this contract for VISN 23. The value of this modification is for \$4,000,000. Although VISN 23 PLMS provides a variety of services, the laboratory services are limited to routine diagnostic testing. As such, laboratory personnel do not perform unique, highly specialized testing like a larger reference laboratory testing facility would provide. Due to the high costs associated with the implementation of these diagnostic tests (equipment, accreditation, proficiency testing, etc.) in-house, it is more cost effective to utilize a Reference Laboratory facility that provides an extensive number of specialized tests beyond the capability of any current VISN 23 Medical Center or Hospital Laboratory.

4. **Statutory Authority Permitting Other than Full and Open Competition:**

(x)(2) Unusual and Compelling Urgency per FAR 6.302-2

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** At this time, the incumbent contractor, Quest Diagnostics, is the only known contractor that has the resources (manpower, experience, technical/operational knowledge and interconnection of computer systems) to perform the critical mission for the short term contract. The current contract is nearing its estimated contract maximum of \$8,000,000. An integrated product team (IPT) is being developed to procure a new long term VISN-wide contract. However, it is anticipated that a minimum of two hundred and twenty (220) business days will be required to procure and potentially transition the current workload to another contractor without any disruptions in services after a complete procurement package is developed by the IPT.

As these diagnostic testing services are necessary in the diagnosis and treatment of illnesses and disease, VISN 23 PLMS requires continuation of services until a new contract has been awarded and the awardee has achieved full implementation of the required services. It wouldn't be feasible to complete an Interim competitive contract for this shorter period. The statement of work needs to be revised and schedule needs to be updated. It is also not possible for other vendors to compete because VA doesn't have adequate transition time to switch to a new vendor and have their testing facility operational with our computer system.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** An Intent to Sole Source was posted on FBO.gov on October 16, 2014 with responses due October 27, 2014. No additional contractors were identified as a potential source for the short term emergency requirement. The modification to increase the ceiling is also important to allow adequate time to procure the long-term requirement. It is imperative that we allow enough time to thoroughly review the existing lab test schedule to ensure that we don't eliminate any competitors by being too restrictive with the quantity and type of tests.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The existing IDIQ contract was competed initially. The purpose of this modification is to increase the maximum contract ceiling. The existing line item prices will remain the same and are considered fair and reasonable based on adequate price competition.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Current market research has determined that there are at least (5) five possible vendors that are able to provide reference laboratory services. However, due to the VA's security requirements and data connectivity prior to implementation of contract performance, the number of potential vendors is limited. Quest Diagnostics is currently the only known vendor that has an established Virtual Private Network with VISN 23's Medical Center and Hospitals.


All five vendors identified in the market research will be provided a link to the long term solicitation that will be posted on FedBiz Opportunities, when it becomes available.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** No sources responded to the intent to sole source. It is anticipated that the long term contract will have interest from Quest Diagnostics, ARUP Laboratories, North Shore Laboratories and Lab Corp.
11. **A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required:** The IPT team is working on the documentation required to release a VISN-wide solicitation with an anticipated release in FY 15. Future solicitations will be released with adequate contract maximums to ensure future needs are properly addressed within the initial contract action.
12. **Requirements Certification:** I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veterans Affairs and that the supporting data under my cognizance, which are included in the justification, are accurate and complete to the best of my knowledge and belief.


Jill Johnson
Health System Specialist
VA Midwest Healthcare Network

12-10-14
Date

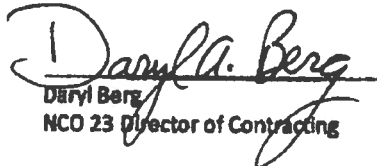
13. Approvals in accordance with the VHAPM, Volume 6, Chapter VI: OFQC SOP.

- a. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.


Jason White
Contracting Officer
NCO 23

12-11-14
Date

- b. **Director of Contracting /Designee (Required \$150K and above):** I certify the justification meets requirements for other than full and open competition.


Daryl Berg
NCO 23 Director of Contracting

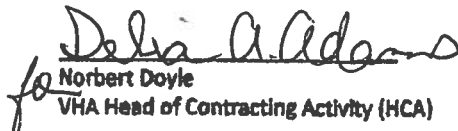
2/2/2015
Date

- c. **SAO (If over \$50K):** I certify the justification meets requirements for other than full and open competition.


Ricky Lemmon
Director, Service Area Office, Central

2/2/15
Date

- d. **VHA HCA Review and Approval:** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and recommend approval (if over \$12.5 million) or approve (\$650K to 12.5 million) for other than full and open competition.


for Norbert Doyle
VHA Head of Contracting Activity (HCA)

2-3-15
Date

FedBizOpps Special Notice

CLASSIFICATION CODE *	Q
SUBJECT *	Intent to Sole Source a contract modification to Quest Diagnostics for Reference Lab Testing
GENERAL INFORMATION	
CONTRACTING OFFICE'S * ZIP-CODE	55415
SOLICITATION NUMBER	
ARCHIVE	40 DAYS AFTER THE RESPONSE DATE
RECOVERY ACT FUNDS	N
NAICS CODE *	621511
CONTRACTING OFFICE ADDRESS	Department of Veterans Affairs NCO 23 - Minneapolis 708 S. Third St., Suite 200E Minneapolis MN 55415
DESCRIPTION *	See Attachment
POINT OF CONTACT (POC Information Automatically Filled from User Profile Unless Entered)	Jason Hinze Jason.Hinze@va.gov
ADDITIONAL INFORMATION	
AGENCY'S URL	
URL DESCRIPTION	
AGENCY CONTACT'S EMAIL ADDRESS	Jason.Hinze@va.gov
EMAIL DESCRIPTION	Email

* = Required Field

FedBizOpps Special Notice
Rev. March 2010

This Notice of Intent is provided to advise that the Government intends to award the following Sole Source contractual action via modification to Firm-Fixed-Price, Indefinite Delivery Indefinite Quantity Contract Number VA69D-P-1088 with Quest Diagnostics. The purpose of this action is to increase the contracts maximum value from \$8M to \$12M. The current contract has reached its maximum ceiling value of \$8M; however the Period of Performance is valid until March of 2016. This additional ceiling will allow for continuation of reference lab testing for VISN 23 facilities. The Reference lab testing must continue because of its critical nature.

This procurement will be made under Other Than Full and Open Competition as authorized by the Federal Acquisition Regulation, FAR 6.302-1; Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements and statutory authority permitting other than full and open competition. At this time, Quest Diagnostics is the only known contractor that has the manpower, experience, technical/knowledge and interconnection with our computers systems to continue to perform this critical mission for the short term. A new long term contract is in the preliminary process of being procured. This increase is necessary to continue services in the short term and to allow enough time to hold a proper competition for the new requirement and to transition the workload to another contractor without disruptions (if applicable). This modification to increase the ceiling is anticipated to be awarded within the next 30 to 60 days.

This is a notice of intent of a contract modification and not a request for competitive proposals. No solicitation is available for this requirement. If a firm believes that VA should not pursue this sole source procurement with Quest Diagnostics., then they should submit information by 10:00 am EST on October 27, 2014 to Jason.Hinze@va.gov. A determination by the Government to compete this proposed contract based upon responses to this notice is solely within the discretion of the Government.

Woodard, Pamela A.

From: McDavitt, James A.
Sent: Monday, February 02, 2015 2:19 PM
To: Woodard, Pamela A.
Subject: FW: J&A Review

Jim McDavitt
NCO 23 Quality Assurance & Compliance
Department of Veterans Affairs
Network 23 Contracting Office (NCO 23)
708 South 3rd Street, Suite 200E
Minneapolis, MN 55415-1116
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"INTEGRITY, COMMITMENT, ADVOCACY, RESPECT, AND EXCELLENCE – these are our goals." As our client, please take a few moments and let us know how we did by completing the attached **SURVEY**.



"Delivering Client Centered Acquisition Solutions"

From: Neely, Natica C.
Sent: Monday, November 03, 2014 3:05 PM
To: Hinze, Jason C.
Cc: Stout, Julie A.; Seitz, Ben A.
Subject: RE: J&A Review

Hi Jason. The law is pretty clear with regards to increasing a contract maximum:

An increase in the maximum quantity of an IDIQ contract (other than through the exercise of an option) would increase its scope and constitute a new procurement, requiring either full and open competition or a J&A. See: Liebert Corp., 70 Comp. Gen. 448 (Apr. 29, 1991), in which the GAO stated:

"An order in excess of the maximum quantity stated in the contract would be outside the scope of the contract. Such an order would result in a contract materially different from that for which the original competition was held and, absent a valid sole-source determination, would be subject to CICA requirements for competition. See Neal R. Gross & Co., Inc., 69 Comp. Gen. 292 (1990), 90-1 CPD ¶ 212; Clean Giant, Inc., B-229885, *supra*."

Therefore, an increase in the maximum contract amount constitutes a new procurement, which either requires full and open competition or a valid sole source determination.

ncn

Natica Chapman Neely, Staff Attorney
Office of Regional Counsel (618/02)

Tel: (202) 309-0737

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From: Hinze, Jason C.
Sent: Monday, November 03, 2014 11:30 AM
To: Neely, Natica C.
Cc: Stout, Julie A.
Subject: FW: J&A Review

Nikki,

I am just looking for clarification on a modification I was working on, which will eventually will have to be reviewed by legal.

Essentially, the VISN-wide lab contract is at 7.88M and has a maximum contract value of 8M. We anticipate about 2.9M in orders within the next year or so. We have just begun to form an IPT but we anticipate a significant amount of time will need to be incorporated into the timeline to correctly identify all the tests that need to be on the new schedule.

So to continue service, I basically have two options. A short-term interim IDIQ contract, using 6.302-1 or modifying the existing contract and completing a Justification to increase the Maximum using 6.302-1.

Since the existing IDIQ doesn't expire until March of 2016, I figured modifying the existing contract and completing a Justification and Approval would be better since we could maintain the already established pricing. If I do an interim contract then the contractor could re-negotiate any term of our original agreement, including the pricing.

I plan to move forward with the modification and justifying it via 6.303, however, technical was not sure this was possible it was possible to modify an existing IDIQ contract and increase the stated maximum, even with a J&A.

Can you just provide some clarification. Thanks!

Jason Hinze
Contract Specialist
Department of Veterans Affairs
Network Contracting Office 23 (NCO 23)
708 South 3rd Street, Suite 200E
Minneapolis, MN 55415
Phone: 612-344-2150
Fax: 612-333-3667
Jason.Hinze@va.gov

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From: Hinze, Jason C.
Sent: Monday, November 03, 2014 11:10 AM
To: Seitz, Ben A.
Cc: Stout, Julie A.
Subject: RE: J&A Review

I can run it through legal prior to sending it to you. It is not that uncommon, either way it would require a J&A in accordance with 6.302-1 because this would violate CICA without justification. Essentially, it accomplishes the same thing, however, modifying the existing IDIQ makes more sense because it maintains the established pricing. If I were to do a short term contract, we would have to re-negotiate pricing for 4500 line items.

Jason Hinze
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From: Seitz, Ben A.
Sent: Monday, November 03, 2014 10:22 AM
To: Hinze, Jason C.
Cc: Stout, Julie A.
Subject: RE: J&A Review

Good Morning Jason,

I have never heard of modifying an existing IDIQ contract to increase the stated contract maximum. I do not think that is authorized—you may wish to check with legal. I would recommend a short term bridge contract for six months to cover these services.

As you have already instituted an IPT—six months should be plenty of time for a commercial service.

Ben A. Seitz
QA & Compliance Specialist
Department of Veterans Affairs
Network 23 Contracting Office
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ben.seitz@va.gov

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As my customer, please take a moment and let me know how I am doing by completing a SURVEY.



"Delivering Client Centered Acquisition Solutions"

From: Hinze, Jason C.
Sent: Monday, November 03, 2014 9:36 AM
To: Seitz, Ben A.
Subject: J&A Review

Ben,

Please see attached J&A for review. This one is a little different since it is an out of scope modification to increase the limit of the contract for 4M using 6.302-1. This is for the VISN wide laboratory contract. Currently, we are at 7.8M in orders out of a maximum of 8M. We need to increase this threshold to allow for adequate time to compete the new contract. We indicated 4M, which is slightly more than the amount we are anticipating for orders in the next year.

Let me know if you have any additional questions. Thanks

Jason Hinze
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